



Mass.gov

TECHNICAL INFORMATION RELEASE

TIR 19-4: Police Training Surcharge on Vehicular Rental Contracts

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REFERENCED SOURCES:

Massachusetts General Laws (<https://malegislature.gov/Laws/GeneralLaws>)

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I. Introduction

The Massachusetts Legislature has enacted a law imposing a surcharge of \$2.00 (the “surcharge”) upon each “vehicular rental transaction contract” in the Commonwealth on or after January 1, 2019, unless otherwise exempt. See G.L. c. 90, § 32E^{7/8}, as amended by St. 2018, c. 153, § 1. The surcharge shall be implemented in accordance with G.L. c. 90, § 32E^{3/4} and shall be deposited in the Municipal Police Training Fund established in G.L. c. 10, § 35EEE.^[1] (#_ftn1) St. 2018, c. 153, § 3. The surcharge is imposed separately, and in addition to, any other surcharge imposed on vehicular rental contracts, such as those imposed in the city of Boston, the city of Revere, or any locality subject to the Convention Center Financing Surcharge (“CCF”) under other laws.^[2] (#_ftn2) The purpose of this Technical Information Release (“TIR”) is to explain (1) a vendor’s obligations with respect to the collection and remittance of the surcharge, and (2) the new online return to be used to remit all types of vehicular rental contract surcharges to the Department of Revenue (“Department”).

II. Discussion

A. Meaning of “Vehicular Rental Transaction Contract”

Vendors must collect the surcharge on each vehicular rental transaction contract in the Commonwealth where consideration is paid by any person, unless an exemption described in Section IIC of this TIR applies. The term “vehicular rental transaction contract” includes any written agreement setting forth the terms and conditions governing the use of a vehicle provided by a rental company for thirty continuous days or less. See *generally* G.L. c. 90, § 32E^{1/2}. A written agreement may be executed upon tangible media or electronically, such as through the Internet.

Example 1: Betty arrives in Massachusetts by way of an airline flight to Boston Logan International Airport. At the airport, she enters into a single vehicular rental transaction contract with Rental Company for consideration that provides for the rental of 1 vehicle for a period of 7 consecutive days. The contract is subject to the surcharge. The surcharge must be collected from Betty from the Rental Company at the time Betty receives the vehicle.

Example 2: Rental Company and Motor Vehicle Dealer have entered into an agreement for consideration under which Rental Company provides a vehicle to Dealer's customer at no charge to the customer. Rental Company is responsible for collecting the surcharge from the Dealer, unless the surcharge is otherwise exempt. Alternatively, if Dealer provides a vehicle to Customer and neither the Dealer nor the Customer pays any charge to a Rental Company, such arrangement is not a vehicular rental transaction contract and is not subject to the surcharge.

A contract is "in the Commonwealth" if the vehicle is received by the customer in the Commonwealth, whether or not the vehicle is received at a business location of the rental company. See TIR 05-14. Types of vehicles subject to the surcharge include, but are not limited to the following:

Passenger cars

Trucks

Vans

Trailers (but not trailer hitches).

B. Surcharge as Applied to Multiple Vehicle Contracts

The surcharge must be collected only once on each contract, including in circumstances where a single contract provides for the rental of multiple vehicles. In the case of a monthly or annual membership contract in a car sharing organization ("CSO") the surcharge is collected upon the first reservation and use of a vehicle. If the contract is renewable, the surcharge is imposed once each renewal period upon the first reservation and use of a vehicle during the renewal period. For purposes of this TIR, a CSO is a membership-based entity with a distributed fleet of private motor vehicles that are made available to its members primarily for hourly or other short-term use through a self-service, fully automated reservation system. A CSO periodically charges a membership fee separate from any use-based fees relating to a specific vehicle. The term "CSO" does not include any arrangement where a separate written agreement is entered into each time a vehicle is transferred from a rental company to its customer.

The following examples illustrate the application of this subsection:

Example 3. Company enters into a single vehicular rental transaction contract in the Commonwealth with Taxpayer that provides for the rental of 10 vehicles for a period of 21 consecutive days. The contract is subject to the surcharge. Because the contract is a single contract for the rental of multiple vehicles, only one surcharge must be collected for the contract covering the rental of the 10 vehicles. The surcharge must be collected at the time Taxpayer receives the vehicles.

Example 4. Company enters into 10 separate contracts in the Commonwealth with Taxpayer for the rental of 10 vehicles for 21 consecutive days. Taxpayer must collect a surcharge on each separate contract from Taxpayer at the time Taxpayer receives each vehicle.

Example 5. Assume the same facts as Example 1, except that upon the expiration of the initial 21-day rental contract, Taxpayer decides to renew the contract for an additional 21 days. Company must collect a second surcharge on the renewal contract when the contract is renewed.

Example 6. Individual pays a \$60.00 annual membership fee to CSO, a car sharing organization. The membership fee enables the individual to rent a vehicle at a rate of \$7.00 per hour. Individual rents a vehicle for 1 hour for \$7.00. Since this rental is for less than 12 consecutive hours, no surcharge is due. Individual subsequently rents a vehicle from CSO in a separate contract for 24 hours for a total charge of \$168.00. The contract is subject to the surcharge. Because this rental is for a period of more than 12 consecutive hours, CSO must collect the surcharge on this rental at the time Individual receives the vehicle.

C. Exempt Rental Contracts

1. All sales and transactions that Massachusetts is prohibited from taxing under the Constitution or laws of the United States are exempt from the surcharge. G.L. c. 64H, § 6(a).
2. Agencies of the United States or its political subdivisions are exempt from the surcharge. G.L. c. 64H, § 6(d).

3. To the extent that a foreign diplomat or consular employee is exempt from sales tax pursuant to Administrative Procedures 102 and 621, the diplomat or employee is likewise exempt from the surcharge.
4. The surcharge does not apply to a transportation network company, as defined in G.L. c. 159A½, § 1, such as Uber or Lyft. G.L. c. 90, § 32E7/8(a).
5. The surcharge does not apply to a vehicular rental contract for a period of more than 30 consecutive days or to rental periods of less than 12 hours that are charged on an hourly basis. G.L. c. 90, § 32E7/8(a).

D. Non-Exempt Rental Contracts

1. There is no exemption from the surcharge for rentals by religious, scientific, charitable or educational organizations exempt from federal income taxation under Internal Revenue Code § 501(c)(3), or organizations exempt from federal income tax under any other section of the Internal Revenue Code.
2. There is no general exemption from the surcharges for rentals by agencies of the Commonwealth of Massachusetts or its political subdivisions.

E. Relationship Between the Surcharge and Sales Tax

The surcharge is imposed separately and in addition to the existing 6.25% sales tax imposed under G.L. c. 64H, § 2. The surcharge is not part of the sales price subject to Massachusetts sales tax. For billing purposes, the surcharge must be stated separately from the sales price and the sales tax on the invoice provided to the customer, and must be reported and remitted separately on a vendor's quarterly surcharge return, in accordance with the requirements of Section III of this TIR. See Letter Ruling 99-6.

III. Returns and Record Retention Requirements

A. Vehicle Rental Surcharge Online Return

Vendors who are already registered with the Department to collect surcharges imposed on vehicular rental contracts in the City of Boston or the City of Revere are not required to register again for purposes of collecting the surcharge. All other vendors required to collect the surcharge must register with the Department and create an online account using MassTaxConnect. Vendors that are currently registered to collect vehicular rental surcharges in both Boston and Revere will be contacted by the Department about changes to their existing accounts to accommodate the new surcharge. Other vendors with questions about registration or filing and payment requirements should contact the Department by calling 617-887-6367 or 800-392-6089, and choose “Trustee,” the fourth prompt.

The surcharge must be collected by the vendor and reported and remitted to the Department on a quarterly basis by filing a Vehicle Rental Surcharge Return electronically through their account in MassTaxConnect. Nothing in this TIR affects the responsibilities of vendors required to collect, report and remit other surcharges imposed on vehicular rental contracts in certain municipalities. The Vehicle Rental Surcharge Return will be used to report all vehicular rental surcharges for communities subject to the CCF surcharge, and for vehicular rental surcharges for the City of Boston and the City of Revere.

The Vehicle Rental Surcharge Return is due on or before the 20th day of the month following the close of each calendar quarter. Vendors having more than one rental location must report all vehicular rental surcharges on a single Vehicle Rental Surcharge Return.

Vendors should use the existing Form CCF-VR on MassTaxConnect to report vehicular rental surcharges for communities subject to the CCF surcharge, and for vehicular rental surcharges for the City of Boston and the City of Revere for 4th quarter 2018 returns due January 20, 2019. Existing Form CCF-VR on MassTaxConnect will be replaced and combined into the Vehicle Rental Surcharge Return beginning with 1st quarter 2019 returns. Vendors may still use Form CCF-VR if they need to amend any such return filed on or before January 20, 2019.

B. Record Retention

In addition to the general record keeping requirements set forth in G.L. c. 62C, § 25 and 830 CMR 62C.25.1, vendors are required to retain the following:

1. Any vendor required to collect and remit any vehicular rental surcharge must maintain permanent books of account or records of all vehicle rentals subject to a surcharge. Records must be sufficiently accurate and complete to establish the amount of each vehicular rental surcharge due.
2. Vendors shall retain copies of each Vehicle Rental Surcharge Return filed together with supporting data to indicate how the amount of each surcharge reported on the return was calculated.

IV. Effective Date

This TIR applies to vehicular rental transaction contracts in the Commonwealth that are entered into on or after January 1, 2019. The first Vehicle Rental Surcharge Returns reporting the police training surcharge will be due on April 22, 2019.^[3] ([#_ftn1](#))

/s/Christopher C. Harding
Christopher C. Harding
Commissioner of Revenue

CCH:RHF:wrđ

May 8, 2019

TIR 19-4

^[1] ([#_ftnref1](#)) Section 32E³/₄ provides, in pertinent part:

"Section 32E^{3/4}. A rental company may include separately stated surcharges, fees or charges in a rental agreement, which may include, but shall not be limited to, vehicle license cost recovery fees, airport access fees, airport concession fees, convention center surcharges and all applicable taxes; provided, however, that: (i) these surcharges, fees or charges shall not be included in the base cost of the vehicle rental; (ii) these surcharges, fees or charges shall be disclosed in a manner that is readily noticable in the rental agreement; and (iii) the rental company shall include a statement in any price advertisement it makes in the commonwealth about the existence of these surcharges, fees or charges that a consumer must pay and which may be separately stated on a rental transaction.

[\[2\] \(#_ftnref2\)](#) See, e.g., St. 1997, c. 152, § 9(e) (imposing a convention center financing vehicular rental surcharge in Boston); St. 2005, c. 92, § 1 (imposing a surcharge on vehicular rental contracts in Revere). See *also* TIRs 00-2; 05-1; 05-14.

[\[3\] \(#_ftnref1\)](#) Generally, quarterly returns are due on the 20th day of the month following the close of the calendar quarter. However, where the due date falls on a Saturday, Sunday or legal holiday, the filing and payment may be made on the next succeeding business day. See TIR 84-3.

REFERENCED SOURCES:[Massachusetts General Laws](https://malegislature.gov/Laws/GeneralLaws) (https://malegislature.gov/Laws/GeneralLaws)

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